

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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| John Eugene Cotter, |) | Civil Action No.: 0:14-cv-2846-BHH |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | <u>OPINION AND ORDER</u> |
| |) | |
| Carolyn W. Colvin, ¹ |) | |
| Acting Commissioner of Social Security, |) | |
| |) | |
| Defendant. |) | |
| |) | |

This matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Paige J. Gossett, made in accordance with 28 U.S.C. 636(b)(1)(B) and Local Civil Rule 73.02 for the District of South Carolina. The plaintiff John Eugene Cotter (“the plaintiff”), brought this action seeking judicial review of the final decision of the Commissioner of Social Security (“Commissioner”) denying his claim for Disability Insurance Benefits (“DIB”).

On March 20, 2015, the Commissioner filed a motion to remand requesting that the Court enter judgment reversing the decision and remand the case for further administrative proceedings. While the plaintiff did not file a response to the motion, the Commissioner indicated that the plaintiff opposed the motion and requested that the matter be remanded for payment of benefits from April 10, 2012. On June 19, 2015, the Magistrate Judge issued a Report and Recommendation in which she recommended the Commissioner’s decision be reversed pursuant to sentence four of 42 U.S.C. § 405(g) and that the case be

¹Carolyn W. Colvin became the Acting Commissioner of Social Security on February 14, 2013. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Carolyn W. Colvin should be substituted for Michael J. Astrue as Defendant in this lawsuit.

remanded to the Commissioner for an award of benefits beginning April 10, 2012 . (ECF No. 25.) Plaintiff filed no objections to the Report and Recommendation. On July 9, 2015, the Commissioner filed “Defendant’s Notice of Not Filing Objections to the Report and Recommendation of Magistrate Judge.” (ECF No. 26.)

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to him with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir.2005).

The Court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The Court adopts the Report and Recommendation and incorporates it herein by reference. The decision of the Commissioner to deny benefits is **reversed** pursuant to sentence four of 42 U.S.C. § 405(g), and the action is **remanded** to the Commissioner for an award of benefits beginning April 10, 2012.

IT IS SO ORDERED.

/s/ Bruce Howe Hendricks
United States District Judge

August 11, 2015
Greenville, South Carolina